

United States District Court
Eastern District of Michigan

DAVID DEWBERRY,

Case Number 05-74931

Plaintiff(s),

District Judge JOHN CORBETT
O'MEARA

v.

Magistrate Judge SCHEER

UNITED STATES ARMY RESERVE,

Defendant(s).

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**ORDER DENYING PLAINTIFF'S APPLICATION
FOR APPOINTMENT OF COUNSEL WITHOUT PREJUDICE**

The plaintiff has filed an application for appointment of counsel. "Appointment of counsel in a civil case is not a constitutional right." Mekdeci v Merrell National Laboratories, 711 F.2d 1510,1522 (11th Cir. 1983). "It is a privilege that is justified only by exceptional circumstances." Lopez v Reyes, 692 F.2d 15, 17 (5th Cir. 1982). Wahl v Mclver, 733 F.2d 1169, 1174 (11th Cir. 1985). In determining whether "exceptional circumstances" exist, courts have examined "the type of case and the abilities of the plaintiff to represent himself." Archie v Christian, 812 F.2d 250, 253 (5th Cir. 1987); see *also* Poindexter v FBI, 737 F.2d 1173, 1185 (D.C. Cir. 1984). This generally involves a determination of the "complexity of the factual and legal issues involved." Cookish v Cunningham, 787 F.2d 1,3 (1st Cir. 1986).

At this point in time, based upon the filings in this case, this court is unable to determine whether or not the plaintiff has the capability to represent herself, and to the

complexity of the factual and legal issues involved.

Therefore, plaintiff's application for appointment of counsel is **DENIED WITHOUT PREJUDICE.**

s/John Corbett O'Meara
John Corbett O'Meara
United States District Judge

Dated: February 21, 2006